

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600

Case No. A-5582

PETITION OF NAORU KOIZUMI AND ROBERT WILEN
(Hearing held May 16, 2001)

OPINION OF THE BOARD
(Effective date of Opinion, July 25, 2001)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for variances from Sections 59-C-1.323(a), 59-B-3.1 and 59-C-1.323(b)(1). The petitioners proposed to construct a covered porch that requires a .42 foot variance as it is within 21.58 feet of the front lot line and a second-story addition that requires a .92 foot variance as it is within 6.08 feet of the side lot line. The required front lot line setback is twenty-two (22) feet and the required side lot line setback is seven (7) feet.

The subject property is Lot 41, Block 12, West Chevy Chase Heights Subdivision, located at 4413 Chase Avenue, Bethesda, Maryland, in the R-60 Zone, (Tax Account No. 03317990).

Decision of the Board: Requested variances **granted**.

EVIDENCE PRESENTED TO THE BOARD

1. The petitioner testified that the property is improved with a single-family dwelling with an enclosed roofed porch area, which was built in 1942 as part of the original residence, that extends approximately eight feet into the front property line.
2. Mr. Tono, the petitioners' architect, testified that they proposed to relocate the main entrance of the residence and that the relocated entrance would be covered. Mr. Tono testified that the newly relocated entrance to the residence would extend .42 feet into the front lot line setback, but would not extend beyond the existing one-story addition built in 1942. See, Exhibit No. 6(b).
3. The petitioner testified that the northwest corner of the existing residence is located in the western side yard setback and that this circumstance was not discovered until a boundary survey was done for a minor lot line adjustment. See, Exhibit No. 4(a). The petitioner testified that the second-story addition would not expand or alter the existing footprint of the residence.
4. The petitioner testified that he has spoken with his neighbors and his community association and that his neighbors and the association had no objections to the variance request.

FINDINGS OF THE BOARD

Based on the petitioner's binding testimony and the evidence of record, the Board finds that the variances can be granted. The requested variances comply with the applicable standards and requirements set forth in Section 59-G-3.1 of the Zoning Ordinance as follows:

- (a) *By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict applications of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.*

The relocation of the entrance would not extend beyond the existing front footprint of the house and the relocated entrance would not materially alter the visual look of the residence. The northwest corner of the residence is located in the required western side yard setback. The Board finds that these exceptional circumstances that would result in practical difficulty and an undue hardship upon the applicants.

- (b) *Such variance is the minimum reasonably necessary to overcome the aforesaid exceptional conditions.*

The Board finds that the variances requested for the construction of a covered porch and a second-story addition are the minimum reasonably necessary to overcome the exceptional circumstances of the property.

- (c) *Such variance can be granted without substantial impairment to the intent, purpose and integrity of the general plan or any duly adopted and approved area master plan affecting the subject property.*

The Board finds that the proposed construction would continue the residential use of the property and that the variances will not impair the intent, purpose, or integrity of the general plan or approved area master plan.

- (d) *Such variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties.*

The Board finds that the proposed alterations to the residence would remain within the existing footprint and that the proposed construction would not be detrimental to the use and enjoyment of the adjoining and neighboring properties.

Accordingly, the requested variances of .42 feet from the required twenty-two (22) foot front lot line setback and of .92 feet from the required seven (7) foot side lot line setback for the construction of a covered porch and a second-story addition are granted subject to the following conditions:

1. The petitioner shall be bound by all of his testimony and exhibits of record, and the testimony of his witnesses, to the extent that such evidence and representations are identified in this Opinion.

2. Construction must be completed according to plans entered in the record as Exhibit Nos. 4(a) and 6 (a) through (c).

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above be adopted as the Resolution required by law as its decision on the above entitled petition.

On a motion by Louise L. Mayer, seconded by Angelo Caputo, with Donna L. Barron, Mindy Pittell Hurwitz, Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the foregoing Resolution.

Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

I do hereby certify that the foregoing Opinion was officially entered in the Opinion Book of the County Board of Appeals this 25th day of July, 2001

Katherine Freeman
Executive Secretary to the Board

NOTE:

See Section 59-A-4.53 of the Zoning Ordinance regarding the twelve-month period within which the variance granted by the Board must be exercised.

The Board shall cause a copy of this Opinion to be recorded among the Land Records of Montgomery County.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.